

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 19-487

Caption [use short title]

Motion for: PERMISSION TO APPEAL
IN FORMA PAUPERIS

RONALD OCASIO

V.

UNITED STATES OF
AMERICA

Set forth below precise, complete statement of relief sought:

SEEKING AN APPOINTMENT
OF COUNSEL IN ORDER TO
FURTHER BRIEF THE
DISTRICT COURT ON THE
SAID ISSUES.

MOVING PARTY: RONALD OCASIO

OPPOSING PARTY: UNITED STATES OF AMERICA

☐ Plaintiff☐ Defendant☒ Appellant/Petitioner☐ Appellee/Respondent

MOVING ATTORNEY: RONALD OCASIO

OPPOSING ATTORNEY: SARAH EDDY (AUSA)

[name of attorney, with firm, address, phone number and e-mail]

GREEN HAVEN CORRECTIONAL FACILITY
594 ROUTE 216
STORMVILLE, N.Y., 12582ONE ST. ANDREW'S PLAZA
NEW YORK, N.Y., 10007

Court- Judge/ Agency appealed from:

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):

☒ Yes ☐ No (explain):

Opposing counsel's position on motion:

☐ Unopposed ☐ Opposed ☒ Don't Know

Does opposing counsel intend to file a response:

☒ Yes ☐ No ☐ Don't KnowFOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND
INJUNCTIONS PENDING APPEAL:

Has this request for relief been made below?

☐ Yes ☐ No

Has this relief been previously sought in this court?

☐ Yes ☐ No

Requested return date and explanation of emergency:

Is oral argument on motion requested?

☐ Yes ☒ No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

☐ Yes ☒ No If yes, enter date:

Signature of Moving Attorney:

R. Ocasio

Date: MAY 13, 2019 Service by: ☐ CM/BCF ☐ Other [Attach proof of service]

Ronald OCASIO Din: 94A5445
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582

May 13, 2019

Clerk's Office
U.S. Court of Appeals
For the Second Circuit
U.S. Courthouse
40 Foley Square
New York, NY 10007

Re: OCASIO v. United States,
Docket No: 19-487

Dear Clerk of the Court:

On May 9, 2019, I received the Strike Order dated May 1, 2019, notifying me that my motion for assignment of Pro-Bono counsel and motion to proceed in forma pauperis was remove from your calendar because of a defect.

I, now, resubmit the enclosed documents to this court: a complete motion for assignment of Pro-Bono counsel and the motion to proceed in forma pauperis, as so cured by me. In compliance to this court's rules and regulations, I served a copy of said documents to Sarah Eddy (AUSA) at One St. Andrew's Plaza, New York, NY 10007.

On another note, I would like to apprise this court about something important: I never received a copy of Docket No. 32, date April 12, 2019--the "staying of the successive motion pending further order of the court". In this regard, I respectfully request a copy of this order.

Thank you for taking the time to address this matter. I remain.

Respectfully,

R. Ocasio
Ronald OCASIO

cc: File

RECEIVED
2019 MAY 15 PM 1:57
CLERK'S OFFICE
U.S. COURT OF APPEALS
FOR THE SECOND CIRCUIT

Provide a statement that identifies the relevant facts and makes a showing of likely merit as to each issue you intend to present on appeal. See Local Rule 24.1

RELYING ON SUPREME COURT RULING IN SESSIONS
V. DIMAYA, 138 S. CT. 1204, WHICH ESTABLISH A
DENIAL OF CONSTITUTIONAL RIGHTS. PLEASE SEE
SUBMITTED MOTION FILED ON FEB. 20, 2019.
ON THE ABOVE MATTER.

UNITED STATES DISTRICT COURT

for the
SOUTHERN DISTRICT OF NEW YORKRONALD OCASIO,

Plaintiff

v.

UNITED STATES OF AMERICA

Defendant

Case No. 19-487AFFIDAVIT ACCOMPANYING MOTION
FOR PERMISSION TO APPEAL IN FORMA PAUPERIS

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: R. Ocasio

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: MAY 13, 2019

My issues on appeal are:

RELYING ON SUPREME COURT RULING IN
SESSIONS V. DIMAYA, 138 S. CT. 1204, WHICH SHOWS A
DENIAL OF CONSTITUTIONAL RIGHTS.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ 0	\$ NA	\$ 0	\$ NA
Self-employment	\$ 0	\$ NA	\$ 0	\$ NA
Income from real property (such as rental income)	\$ 0	\$ NA	\$ 0	\$ NA
Interest and dividends	\$ 0	\$ NA	\$ 0	\$ NA
Gifts	\$ 0	\$ NA	\$ 0	\$ NA
Alimony	\$ 0	\$ NA	\$ 0	\$ NA
Child support	\$ 0	\$ NA	\$ 0	\$ NA
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$ NA	\$ 0	\$ NA
Disability (such as social security, insurance payments)	\$ 0	\$ NA	\$ 0	\$ NA
Unemployment payments	\$ 0	\$ NA	\$ 0	\$ NA
Public-assistance (such as welfare)	\$ 0	\$ NA	\$ 0	\$ NA
Other (specify):	\$ 0	\$ NA	\$ 0	\$ NA
Total monthly income:	\$ 0	\$ NA	\$ 0	\$ NA

2. List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
NA	NA	NA	\$ NA
NA	NA	NA	\$ NA
NA	NA	NA	\$ NA

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
NA	NA	NA	\$ NA
NA	NA	NA	\$ NA
NA	NA	NA	\$ NA

4. How much cash do you and your spouse have? \$ NA

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
NONE	NONE	\$ 0	\$ 0
NONE	NONE	\$ 0	\$ 0
NONE	NONE	\$ 0	\$ 0

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home	Other real estate	Motor vehicle #1
(Value) \$ NONE	(Value) \$ NONE	(Value) \$ NONE
NONE	NONE	Make and year: NONE
		Model: NONE
		Registration #: NONE

Motor vehicle #2	Other assets	Other assets
(Value) \$ NONE	(Value) \$ NONE	(Value) \$ NONE
Make and year: NONE	NONE	NONE
Model: NONE	NONE	NONE
Registration #: NONE	NONE	NONE

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
NONE	\$ NONE	\$ NONE
NONE	\$ NONE	\$ NONE
NONE	\$ NONE	\$ NONE
NONE	\$ NONE	\$ NONE

7. State the persons who rely on you or your spouse for support.

Name [or, if under 18, initials only]	Relationship	Age
NONE	NONE	NONE
NONE	NONE	NONE
NONE	NONE	NONE

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment (including lot rented for mobile home)	\$	\$
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No	NONE	NONE
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ NONE	\$ NONE
Home maintenance (repairs and upkeep)	\$ NONE	\$ NONE
Food	\$ NONE	\$ NONE
Clothing	\$ NONE	\$ NONE
Laundry and dry-cleaning	\$ NONE	\$ NONE
Medical and dental expenses	\$ NONE	\$ NONE
Transportation (not including motor vehicle payments)	\$ NONE	\$ NONE
Recreation, entertainment, newspapers, magazines, etc.	\$ NONE	\$ NONE
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's:	\$ NONE	\$ NONE
Life:	\$ NONE	\$ NONE
Health:	\$ NONE	\$ NONE
Motor vehicle:	\$ NONE	\$ NONE
Other:	\$ NONE	\$ NONE
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$ NONE	\$ NONE
Installment payments		
Motor Vehicle:	\$ NONE	\$ NONE
Credit card (name):	\$ NONE	\$ NONE
Department store (name):	\$ NONE	\$ NONE
Other:	\$ NONE	\$ NONE

Alimony, maintenance, and support paid to others	\$ 0	\$ NA
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0	\$ NA
Other (specify):	\$ 0	\$ NA
Total monthly expenses:	\$ 0	\$ NA

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No

If yes, describe on an attached sheet.

10. Have you spent - or will you be spending - any money for expenses or attorney fees in connection with this lawsuit? ☐ Yes ☒ No

If yes, how much? \$

11. Provide any other information that will help explain why you cannot pay the docket fees for your appeal. I AM CURRENTLY INCARCERATED AND ONLY EARN \$6.00 DOLLARS WEEKLY AND CAN NOT AFFORD TO PAY THE FEES.

12. State the city and state of your legal residence:

STORMVILLE, NEW YORK

Your daytime phone number:

Your age: 52 Your years of schooling: 2 YEARS OF COLLEGE.

Alimony, maintenance, and support paid to others	\$ NONE	\$ NONE
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ NONE	\$ NONE
Other (specify):	\$ NONE	\$ NONE
Total monthly expenses:	\$ NONE	\$ NONE

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No

If yes, describe on an attached sheet.

10. Have you spent - or will you be spending - any money for expenses or attorney fees in connection with this lawsuit? ☐ Yes ☒ No

If yes, how much? \$

11. Provide any other information that will help explain why you cannot pay the docket fees for your appeal. I AM CURRENTLY INCARCERATED AND ONLY MAKE \$6.50 DOLLARS WEEKLY AND CAN NOT AFFORD AN ATTORNEY NOR PAY THE FEE.

12. State the city and state of your legal residence

STORMVILLE, NEW YORK

Your daytime phone number:

NONE

Your age: 52

Your years of schooling: 2 YEARS OF COLLEGE.

STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES
GREEN HAVEN CORRECTIONAL FACILITY
INMATE STATEMENT FOR THE PERIOD 11/01/18 THRU 11/30/18

NAME: OCASIO RONALD DEPT ID: 94A5445 CELL LOC: 0D-02-021 NYSID: 06796122P

FACILITY	DATE	TRANSACTION (COMMENTS)	TR-NUM	RECEIPT(+)	DISBURS(-)	COLLECTED AMT	STATEWIDE SPENDABLE	STATEWIDE ACCT BAL
		STARTING BALANCE AT GREEN HAVEN				31.40	58.24	89.64
		BALANCE FORWARD						89.64
GREEN HAVEN	11/01/18	PAYROLL RCPT	116403	7.75		.00	65.99	97.39
GREEN HAVEN	11/04/18	ELECTRONIC RECEIPT	AB31021	50.00		.00	115.99	147.39
GREEN HAVEN	11/08/18	COMM BUY			67.82	.00	48.17	79.57
GREEN HAVEN	11/08/18	PAYROLL RCPT	116403	7.75		.00	55.92	87.32
GREEN HAVEN	11/15/18	PAYROLL RCPT	116403	7.75		.00	63.67	95.07
GREEN HAVEN	11/16/18	POSTAGE			7.62	.00	56.05	87.45
GREEN HAVEN	11/21/18	PAYROLL RCPT	116403	6.20		.00	62.25	93.65
GREEN HAVEN	11/23/18	COMM BUY			55.80	.00	6.45	37.85
GREEN HAVEN	11/29/18	PAYROLL RCPT	116403	6.20		.00	12.65	44.05
		MONTHLY ENDING TOTALS		85.65	131.24	31.40	12.65	44.05
		ENDING BALANCE AT GREEN HAVEN						44.05
		20% OF AVERAGE 6 MO SPENDABLE BALANCE		12.99	20% OF AVERAGE 6 MO DEPOSIT AMT			19.74

LAGGED PAYROLL, DAYS LAGGED - 15 AMOUNT LAGGED - 8.60
THIS AMOUNT WILL BE ADDED TO YOUR ACCOUNT UPON RELEASE ONLY

ENCUMBRANCE BREAKDOWN							
REASON	DATE IMPOSED	NOTES	TOTAL OWED	COL MIDATE	COL TO-DATE	BALANCE DUE	CNTY/ORI CASE
GATE MONEY	07/31/14	AUTO GATE MONEY	31.40	.00	31.40	.00	

* ENCUMBRANCES ESTABLISHED AND PAID IN THE CURRENT MONTH.

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

CAPTION:

RONALD OCASIO v.
UNITED STATES
OF AMERICA

CERTIFICATE OF SERVICE

Docket Number: 19-487

I, RONALD OCASIO, hereby certify under penalty of perjury that on
MAY 13, 2019, I served a copy of AFFIDAVIT OF ACCOMPANYING
MOTION FOR PERMISSION IN FORMA PAUPERIS
 (list all documents)

by (select all applicable)*

- ☒ United States Mail
☐ Federal Express
☐ Overnight Mail
☐ Facsimile
☐ E-mail
☐ Hand delivery

on the following parties (complete all information and add additional pages as necessary):

SARAH EDDY (AKA) ONE ST. ANDREW'S PLAZA, NEW YORK, N.Y., 10007
 Name Address City State Zip Code

Name Address City State Zip Code

Name Address City State Zip Code

Name Address City State Zip Code

MAY 13 2019
 Today's Date

R. Ocasio
 Signature

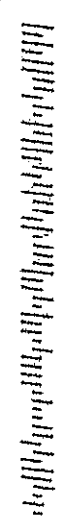
*If different methods of service have been used on different parties, please indicate on a separate page, the type of service used for each respective party.

RONALD

GREEN HAVEN CORR. FAC.

594 ROUTE 216

STORMVILLE, N.Y. 12582



NEOPOST

05/13/2019

US POSTAGE \$00



ZIP 04111

CONGRESSIONAL FACILITY

USMA^{OLD}
SDNY

CLERK'S OFFICE
U.S. COURT OF APPEALS
FOR SECOND CIRCUIT
U.S. COURTHOUSE
40-FOLEY SQUARE
NEW YORK, N.Y. 10007